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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/530,679	07/14/2005	Norihiko Kageyama	47234-0005-00 (216870)	6880
55694 7590 08/14/2009 DRINKER BIDDLE & REATH (DC) 1500 K STREET, N.W. SUITE 1100 WASHINGTON, DC 20005-1209			EXAMINER STULII, VERA	
			ART UNIT 1794	PAPER NUMBER
			MAIL DATE 08/14/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/530,679	<b>Applicant(s)</b> KAGEYAMA ET AL.	
	<b>Examiner</b> VERA STULII	<b>Art Unit</b> 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 01 June 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-8,21-32,39 and 40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8,21-32,39 and 40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 April 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>04/22/2009; 06/01/2009; 08/06/2009</u> . | 6) <input type="checkbox"/> Other: _____  |



## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

**Claims 1, 2, 4-8, 21, 23-25, 29, 32 and 39 are rejected under 35 U.S.C. 102(b) as being anticipated by Nakahara et al (WO 9,952,841) (US 6,331,320 is relied upon as a translation of WO 9,952,841) for the same reasons as stated in the Office action mailed 01/27/2009.**

### ***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

**Claims 3, 28, 30, 31 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakahara et al (WO 9,952,841) (US 6,331,320 is relied upon as a translation of WO 9,952,841) for the same reasons as stated in the Office action mailed 01/27/2009.**

**Claims 26 and 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nakahara et al (WO 9,952,841) (US 6,331,320 is relied upon as a translation of WO 9,952,841) and further in view of Ono et al (US 5,460,836) for the same reasons as stated in the Office action mailed 01/27/2009.**

***Response to Arguments***

Applicant's arguments filed 04/22/2009 have been fully considered but they are not persuasive.

On pages 7-10, 12, 13 of the Reply to the Office action mailed 01/27/2009, regarding the rejection of claims 1, 4-5, 32, 39, 2, 22-23, 6, 7, 21, 8, 24-25, 29, 28 and 26-27, Applicants state that claims "recite a method of processing a plant or a processed material with a gas having a temperature of 140 to 500°C and a pressure of 0.1 to 100 MPa. Nakahara, at best, discloses a method of extracting aromatic compounds by treating plant materials with supercritical or subcritical water. Nakahara fails to teach at least one recited claim element". Examiner respectfully disagrees. As stated in the previous Office action, Nakahara discloses a method of manufacturing a plant finished product, comprising the step of processing a plant or a processed material thereof with high-temperature and high-pressure gas/fluid (supercritical gas/fluid) under conditions where an oxygen concentration is 0 to 1 µg/mL. Nakahara et al disclose that "[i]t is well known that substances can exist in three states: as a solid, liquid or gas. If temperature and pressure are gradually increased, starting in a state in which a gas and a liquid mingle, when a certain pressure and a certain temperature (i.e., critical point) are exceeded, there exists a range in which the boundary surface between the gas and the liquid disappears, and the gas and liquid integrate as an inseparable entity to form a fluid state. Such a fluid is called a supercritical fluid, which is a high-density fluid having properties intermediate between gas and liquid. That is, this fluid, like a liquid, dissolves various substances, and has high fluidity like a gas"(Col. 3 lines 13-26). By definition,

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supercritical fluid is any substance at a temperature and pressure above its critical point. A supercritical gas, is more correctly known as a supercritical fluid, is a distinct state of matter that has the properties of the gas and fluid. As taught by Nakahara et al, the critical point for water is a temperature of 374°C and pressure of 221 atmospheres (22.1 MPa) (Col. 3 lines 27-28). Therefore, Nakahara et al, indeed, discloses a supercritical gas/fluid as instantly claimed. Further in this regard, it is noted that claim 4 recites the gas derived from fluid, and therefore Nakahara et al meets the limitation of claims 1 and 4 by teaching a supercritical gas/fluid derived from liquid.

In regard to Applicants' arguments regarding newly added claim 40 (pages 10, 13 and 14 of the Reply), it is noted that claim 40 recites similar pressure/temperature limitations as claim 3 and therefore is rejected for the same reasons as claim 3. In regard to the pressure/temperature limitations, it is noted that the combination of temperatures and pressures as recited is required to set the boiling point for water at these temperatures/pressures.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to VERA STULII whose telephone number is (571)272-3221. The examiner can normally be reached on 7:00 am-3:30 pm, Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Keith Hendricks can be reached on (571) 272-1401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Lien Tran/  
Primary Examiner  
Art Unit 1794

/Vera Stulii/  
Examiner, Art Unit 1794